

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:12-CR-00043-KDB-DCK-1

USA

v.

JOHN ROBERT MULLEN

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ORDER

THIS MATTER is before the Court on Defendant John Robert Mullen's *pro se* renewal motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018. (Doc. No. 44). Having carefully reviewed the Defendant's motion and all other relevant portions of the record, the Court will deny the motion without prejudice to a renewed motion after exhaustion of his administrative remedies.

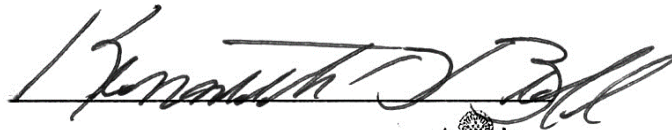
Defendant's previous motion for compassionate release was denied for failure to exhaust his administrative remedies within the Bureau of Prisons as required under 18 U.S.C. § 3582(c)(1)(A). According to the BOP website, FCI Gilmer, currently has 14 confirmed active inmate cases at the facility, one death at FCI Gilmer has resulted from COVID-19, and the 290 inmates who previously tested positive have recovered. Given these conditions, the Court finds no reason to disturb its prior ruling requiring Defendant to exhaust his administrative remedies within the BOP before petitioning this Court for relief. (Doc. No. 43). Defendant claims to have re-petitioned the warden for compassionate release on January 26, 2021 and has heard no reply. However, the Defendant does not attach any form to the motion, so the

Court is unable to verify whether or not the warden has denied the request or whether 30 days have passed since the warden received the request. This Court has previously addressed the Defendant's request and the Defendant presents no new evidence that would change the Court's prior ruling.

IT IS, THEREFORE, ORDERED, that the Defendant's *pro se* renewal motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018, (Doc. No. 44), is **DENIED** without prejudice to a renewed motion after exhaustion of his administrative remedies.

SO ORDERED.

Signed: March 11, 2021

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

